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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): David S. Sumida, et al.) Re: REFUND OF RCE FEE
Serial No.: 09/894,347) Group: 2874
Filed: June 28, 2001) Examiner: Sung H. Pak
For: "GUIDED-MODE LASER APPARATUS) Our Ref.: B-4034 618348-2
WITH IMPROVED CLADDING STRUCTURE) Date: February 23, 2005
AND A METHOD OF FABRICATING)
THEREOF")

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR REFUND under 37 CFR 1.26

Per the December 12, 2003 Notice of Improper Request for Continued Examination (RCE) Patent and Trademark Office, a copy of which is attached hereto and pursuant to 37 CFR 1.26, Applicants respectfully request a refund in the amount of \$770 for the RCE fee paid.

Please credit the refund to Deposit Account No. 12-0415.

I hereby certify that this correspondence deposited with the United States Postal Service with sufficient postage as first-class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on February 23, 2005 by Katherine Nieva



Respectfully submitted,



Robert Popa
Attorney for the Applicant
Reg. No.: 43,010

LADAS & PARRY
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Suite 2100
Los Angeles, CA 90036
(323) 934-2300

Enclosure: copy of Notice of Improper Request for Continued Examination (RCE)

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PTO/SB/30 (01-03)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**Request
For
Continued Examination (RCE)
Transmittal**

Address to:
Commissioner for Patents
Box RCE
Washington, DC 20231

| | |
|------------------------|-----------------|
| Application Number | 09/894,347 |
| Filing Date | 6/28/01 |
| First Named Inventor | David Sumida |
| Art Unit | 2874 |
| Examiner Name | Sung H. Pak |
| Attorney Docket Number | B-4034 618348-2 |

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. Submission required under 37 CFR 1.114

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 CFR 1.116 previously filed on _____
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Rely Brief previously filed on _____
- iii. ☐ Other _____
- b. ☐ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☐ Other _____

2. Miscellaneous

- a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other _____

3. Fees

- The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
The Director is hereby authorized to charge the following fees, or credit any overpayments, to
Deposit Account No. 12-0415
- i. ☐ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☐ Other _____
- b. ☒ Check in the amount of \$ 770.00 enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

| | | | |
|-------------------|--------------------|-----------------------------------|----------|
| Name (Print/Type) | ROBERT POPA | Registration No. (Attorney/Agent) | 143010 |
| Signature | <i>Robert Popa</i> | Date | 11/19/03 |

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Box RCE, P.O. Box 1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. Alexandria, VA 22313-1450

| | | | |
|-------------------|----------------|------|----------|
| Name (Print/Type) | MIA KIM | Date | 11/19/03 |
| Signature | <i>Mia Kim</i> | | |

Page 1 of 2

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Box RCE, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

11/28/2003 AWONDAF1 00000074 120415 09894347

31 FC:1801 770.00 OP

Adjustment date: 04/07/2005 SDIRETA1
11/28/2003 AWONDAF1 00000074 09894347
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Repln. Ref: 04/07/2005 SDIRETA1 0007192300
DAH:120415 Name/Number:09894347 \$770.00 CR
FC: 9204



Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

09 894347

APPLICATION NUMBER FILING DATE

FIRST NAMED APPLICANT

ATTY. DOCKET NO./TITLE

DATE MAILED:

NOTICE OF IMPROPER REQUEST FOR CONTINUED EXAMINATION (RCE)

The request for continued examination (RCE) under 37 CFR 1.114 filed on 11-24-03 is improper for reason(s) indicated below:

- ☐ 1. Continued examination under 37 CFR 1.114 does not apply to an application for a design patent. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b) or a CPA under 37 CFR 1.53(d). An RCE cannot be treated as a CPA.
- ☐ 2. Continued examination under 37 CFR 1.114 does not apply to an application that was filed before June 8, 1995. Applicant may wish to consider filing a continuing application under 37 CFR 1.53(b).
- ☒ 3. Continued examination under 37 CFR 1.114 does not apply to an application unless prosecution in the application is closed. If the RCE was accompanied by a reply to a non-final Office action, the reply will be entered and considered under 37 CFR 1.111. If the RCE was not accompanied by a reply, the time period set forth in the last Office action continues to run from the mailing date of that action.
- ☐ 4. The request was not filed before payment of the issue fee, and no petition under 37 CFR 1.313 was granted. If this application has not yet issued as a patent, applicant may wish to consider filing either a petition under 37 CFR 1.313 to withdraw this application from issue, or a continuing application under 37 CFR 1.53(b).
- ☐ 5. The request was not filed before abandonment of the application. The application was abandoned, or proceedings terminated on _____. Applicant may wish to consider filing a petition under 37 CFR 1.137 to revive this abandoned application.
- ☐ 6. The request was not accompanied by the fee set forth in 37 CFR 1.17(e) as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.
- ☐ 7. The request was not accompanied by a submission as required by 37 CFR 1.114. Since the application is not under appeal, the time period set forth in the final Office action or notice of allowance continues to run from the mailing date of that action or notice.

Note: A continued prosecution application (CPA) under 37 CFR 1.53(d) cannot be filed in a utility or plant application. A CPA filed in a utility or plant application that has a filing date on or after June 8, 1995 will be treated as an RCE under 37 CFR 1.114. The request for a CPA in the instant application, however, has been treated as an improper RCE for the reason(s) indicated above.

A copy of this notice MUST be returned with any reply.

Direct the reply and any questions concerning this notice to:

Janice Roberts Technology Center 2800
(703) 308 - 3298